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COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

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June 7, 1983

is in the business of processing mail-in rebate offers. clients are manufacturers offering rebates on their products. The rebate applications are mailed directly to by purchasers of the products. validates the rebate applications and forwards them to a data entry company to transfer the information onto magnetic tape, which uses to print rebate checks to the purchasers and to generate a check register printout. The checks are mailed to the purchasers, the printout is mailed to client-manufacturer, and the magnetic tape is returned to the data entry company. You inquire about the application of the Massachusetts sales tax to these transactions.

Massachusetts General Laws Chapter 64H, Section 2, imposes a sales tax on retail sales in the Commonwealth. A "retail sale" is the sale of tangible personal property in the Commonwealth for any purpose other than resale in the ordinary course of business. (G.L. c. 64H, s. 1(13)). A sale includes the producing, fabricating, or printing to the special order of the customer of tangible personal property for a consideration. (G.L. c. 64H, s. 1(12)(e)). However, the term "retail sale" does not include professional or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made. (G.L. c. 64H, s. 1(13)(c)).

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Subsection 1(f) of Massachusetts Sales and Use Tax Regulations, 830 CMR 64H.06, governing the application of the sales and use taxes to automatic data processing transactions, includes in "keypunching" the recording of information on magnetic tapes. Agreements providing solely for keypunching are regarded as contracts for the fabrication or processing of external storage media, and charges therefor are taxable, whether the external storage media are furnished by the customer or by the contractor. (830 CMR 64H.06(7)).

Whether the processing of customer-furnished data is taxable depends upon the form of the output. If the output is provided to the customer in human readable form, the transaction is regarded as one the real object of which is the service of furnishing personal or individual information. The transfer of the medium on which the output is printed is regarded as inconsequential in such cases. Where the output is provided to the customer in machine readable form, the transaction is regarded as one the real object of which is the transfer of tangible personal property. (830 CMR 64H.06(11)).

Based on the foregoing it is ruled that the keypunching subcontracted to the data entry company is taxable. Charge to its clients is not subject to the sales tax.

Very truly yours,



Commissioner of Revenue

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LR 83-50